

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

In re:NIXON FORK MINING, INC., <i>et al.</i> ,)	
)	Chapter 7
Debtors.)	
)	Bankr. Case No. 99-2379 (JKF)
)	
MESPELT & ALMASY MINING CO.)	
<i>et al.</i> ,)	
)	
Appellants,)	Civil Action No. 04-cv-1524 (GMS)
)	
v.)	
)	
JEOFFREY L. BURTCH, TRUSTEE,)	
)	
Appellee.)	
)	

ORDER GRANTING MOTION OF APPELLEE TO DISMISS APPEAL

1. Before the Court is the Motion of Appellee to Dismiss Appeal (the “Motion”).
2. This Court finds that (1) the Appellants have refused to comply with an order of this Court by failing to adhere to the stipulated briefing schedule to which they agreed; (2) by refusing to file an opening brief, the Appellants have failed to prosecute this appeal; and (3) the Appellants have waived their rights to continue with this appeal.
3. Thus, this Court finds that there is ample cause for granting the Motion, and as stated in the Motion;

NOW THEREFORE IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Motion of Appellee to Dismiss Appeal for Failure to Prosecute is granted and this appeal is dismissed with prejudice. Any and all costs of this appeal are assessed against the Appellants, and the Appellee is deemed to be a prevailing party and entitled to costs. D. Del. LR 54.1.

Dated: _____
Wilmington, DE

THE HONORABLE GREGORY M. SLEET
UNITED STATES DISTRICT JUDGE